

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 18668 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJ MANILAL KAPADIA - Petitioner(s)
Versus
NOBLE CAP MARKET SERVICES LTD & 2 - Respondent(s)

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Appearance :

MS KJ BRAHMBHATT for Petitioner(s) : 1,
UNSERVED-WANT OF TIM for Respondent(s) : 1 - 3.
MR RR MARSHALL for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 21/11/2006

ORAL JUDGMENT

1. The petitioner – original defendant No.2 has filed this petition under Article-227 of the Constitution of India praying for quashing and setting aside the order dated 16.5.2005 passed by the learned 3rd Joint Civil Judge, Surat below application Ex.29 in Special Civil Suit No.9 of 2003 whereby the learned trial Judge rejected the said application and did not grant permission to file the written statement.

2. This Court issued rule on 4.7.2006 and ad-interim relief in terms of para-6(D) was granted. Heard Ms.K.J.Brahmbhatt, learned advocate appearing for the petitioner and Mr.R.R.Marshall, learned advocate appearing for the respondents Nos.1 and 2. Despite

service of notice by affixation, nobody appears on behalf of the respondent No.3. Mr.Marshal, learned advocate appearing on behalf of the respondents Nos.1 and 2 submitted that he has no objection if the relief prayed for in the present petition is granted, and the present petitioner – original defendant No.2 may be permitted to file written statement within the period of six weeks from today.

3. While going through the impugned order and averments made in the petition, the Court is of the view that the interest of justice will better be served if the relief prayed for in the present petition is granted on the basis of grace shown by Mr.Marshal on behalf of the original plaintiffs.

4. In above view of the matter, the present petitioner – original defendant No.2 is hereby permitted to file written statement

within six weeks from today. This petition is accordingly allowed. Rule is made absolute without any order as to costs. On filing of the written statement, the trial Court is directed to proceed with the suit and see to it that the suit will be disposed of as expeditiously as possible, preferably, on or before December, 2007.

(K. A. PUJ, J.)

kks